

TOWN OF ROSS

ORDINANCE NO. 696

AN ORDINANCE OF THE TOWN OF ROSS AMENDING MUNICIPAL CODE CHAPTER 18.41 (DESIGN REVIEW), CHAPTER 18.42 (ACCESSORY DWELLING UNITS), CHAPTER 18.45 (MINOR EXCEPTIONS), AND CHAPTER 18.46 (EXCEPTIONS FOR BASEMENTS AND ATTICS)

The Town Council of the Town of Ross does ordain as follows:

SECTION 1: Title 18 Zoning, Section 18.41.020, "Improvements subject to design review" is amended to read:

18.41.020 Improvements subject to design review. (a) Design review is required for the following projects:

(1) All new buildings and for all exterior remodeling resulting in additions, extensions or enlargements to existing buildings exceeding two hundred square feet of new floor area, including enclosing existing open areas.

(2) All building relocations.

(3) Any increase to the existing roof height.

(4) All fences, gates or walls, or a combination of these, greater than forty-eight inches in height in any yard adjacent to the street or right-of-way.

(5) The construction of any retaining wall greater than forty-eight inches in height as measured from bottom of footing to top of wall or any terraced retaining walls totaling more than forty-eight inches in height.

(6) New retaining walls with a cumulative total of more than one hundred linear feet.

(7) Any sports court fences over 6 feet in height and for gate columns and other decorative fence elements that exceed the permitted fence height limits.

(8) Any project resulting in the removal or alteration of more than twenty-five percent of the exterior walls or wall coverings of a residence, as determined by the Planner.

(9) Any activity or project resulting in more than fifty cubic yards of grading or filling, whether or not a building permit is required.

(10) Any construction, improvements, grading/filling or other site work within twenty-five feet of a creek, waterway or drainageway, whether or not a building permit is required with the exception of creek projects in accordance with Section 18.41.020(b)(4) of this Code.

(11) Redevelopment, Rehabilitation, and/or renovation of existing landscaping over 1,000 square feet, including new hardscape, retaining walls, vegetation modifications, modification to topography, additional impervious surfaces, alterations of drainage patterns, and other site modifications that could affect the visual and/or physical character of the site and neighborhood, whether or not a building permit is required.

(12) Outdoor advertising in the C-L district.

(b) Design Review is not required for the following:

(1) Repainting existing structures involving no exterior remodeling resulting in additions, extensions or alterations.

(2) Accessory Dwelling Units in Accordance with Chapter 18.42 of this Code.

(3) Attic improvement permitted under Chapter 18.46 unless the project involves exterior work within twenty-five feet of a creek, waterway or drainageway, or if the attic project is associated with a larger project that requires design review.

(4) Creek stabilization and/or stream bank repair and alteration permits subject to issuance of a building permit and local, state, and federal permitting approval.

SECTION 2: Title 18 Zoning, Section 18.42.050(c)(2) "Standards for accessory dwelling units" is amended to read:

(2) Accessory dwelling units newly constructed as such or added to an accessory building shall be limited to a single story with a maximum building height of eighteen feet at any point when measured from either existing or finished grade; when an accessory dwelling unit is located above a garage, the structure shall not exceed eighteen feet.

SECTION 3: Title 18 Zoning, Section 18.45.010 is amended to read:

18.45.010 Purpose and intent. The purpose of this chapter is to provide limited relief from the strict application of the development standards specified in this title to allow fences up to 7 feet tall, small accessory structures, mechanical equipment, and the improvement of existing basements where the improvements will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

SECTION 4: Title 18 Zoning, Section 18.45.020 is amended to read:

18.45.020 Applicability. A minor exception from required side and rear yard setbacks, lot coverage and floor area ratio may be requested from the town planner for the following structures to be located on a lot developed with a single-family residence:

1. Fences between 6 and 7 feet in height.
2. Small play structures that do not exceed a height of 15 feet, footprint of 600 square feet (e.g. the footprint of structure including any deck, slide, trampoline and/or swing set area) and the primary deck or enclosed area does not exceed 64 square feet.
3. Small shed structures used as tool and storage sheds that do not exceed 64 square feet and a height of 6 feet.
4. Air conditioners, generators, pool equipment, and any associated enclosure.
5. Improvement of an existing basement provided the following:
 - a. If the structure is in a Special Flood Hazard Area identified on the town Flood Insurance Rate Map and/or in an area that is known for flooding, that the finished floor level of the improvements shall be above the base flood elevation.
 - b. That modifications proposed to the building exterior do not increase the exterior dimensions of the building and that modifications, such as new windows, are compatible with the design of the existing improvements and

- shall not create privacy issues. The Council may limit the size of light wells to the minimum size necessary to satisfy California Building Code requirements for light, ventilation and emergency egress.
- c. That any modifications to site drainage have been designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.
- d. Excavation, grading or cutting shall not exceed 35 cubic yards for newly created basement floor area. The excavation limit shall apply to excavation required to lower the floor to the finished floor and shall not include up to one foot of over excavation for the floor and foundation or any removal of existing foundation or flooring. Additional excavation is permitted for construction of stairs counted as floor area on an upper floor and for existing areas that meet the definition of floor area. If the project involves excavation, grading or cutting for a basement space, new floor area shall not exceed 20% of the existing floor area.

SECTION 5: Title 18 Zoning, Section 18.45.070, Amnesty Period is repealed.

SECTION 6: Title 18 Zoning, Chapter 18.46 "Minor Exceptions" is repealed and replaced to read:

Chapter 18.46

EXCEPTIONS FOR ATTICS

Sections:

- 18.46.010 Purpose and intent.
- 18.46.020 Applicability.
- 18.46.030 Review and approval procedures.
- 18.46.040 Prior conditions not applicable.

18.46.010 Purpose and intent. The purpose of this chapter is to provide relief from the strict application of the development standards specified in this title to allow attic areas to be used as storage or habitable space where the improvement will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Ord. 624 (part), 2011).

18.46.020 Applicability. The town council may grant an exception to setback, story, lot coverage, floor area and building height requirements for improvement of an attic in an existing residential structure created prior to the effective date of this chapter in any single-family residence district or special building site district. The town council may grant an exception under this chapter for improvements to a nonconforming structure. Any addition intended to be used as a second unit shall comply with the provisions of Chapter 18.42 (Residential Second Units).

18.46.030 Review and approval procedures. (a) Application. An application for an exception shall be filed with the town planner on forms prescribed by the town planner, along with any plans or additional information required and the fee as established by a resolution of the town council. The application shall include, in part, evidence supporting the findings required by this chapter.

(b) Review and Approval Authority. The town council shall review and approve, conditionally approve, or deny an exception application at a public meeting. If staff makes a preliminary determination that the required findings may be made, staff may place the application on the town council consent agenda. The Town Council, by resolution, may limit the number of applications that may be accepted per month if a finding is made that staff resources are inadequate to process the number of applications being received.

(c) The town shall mail notice of the meeting at least 10 days prior to the meeting to the property owner and all owners within 300 feet of the property that is the subject of the meeting as shown on the latest equalized assessment roll. In lieu of using the assessment roll, the Town may use records of the county assessor or tax collector which contain more recent information than the assessment roll.

(d) Required Findings. The town council may approve or conditionally approve an exception application if all of the following findings are made:

- (1) That the area to be improved is an existing area created prior to the effective date of this chapter in an existing residence built prior to the effective date of this chapter. Existing area shall not include basement space with a ceiling height less than 5.5 feet.
- (2) If the project involves improvement of an attic, that the improvements proposed shall not change the exterior appearance of the structure, for example, by addition of dormers or raising the roof ridge. However, the Town Council may approve minor changes to the exterior appearance of an attic, such as the addition of windows or skylights, if they will not create view, light or privacy issues for neighbors.
- (3) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.
- (4) The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered). If the site does not comply with the covered parking requirement, the Town Council may require covered parking to be provided. The Town Council may consider the size of the residence, number of bedrooms, and the size and use of the proposed attic and may require additional parking up to the following:

<i>Total site floor area (excluding covered parking)</i>	<i>Required off street parking</i>
1,300 square feet to 3,300 square feet	3 spaces

Over 3,300 square feet

4 spaces

- (5) That the project shall comply with the most recent California Residential Code adopted by the Town.
- (6) The project substantially conforms to design review criteria and standards in Section 18.41.100, even if design review is not required.

(e) Terms and Conditions. Any exception approval may include such terms and conditions as deemed necessary or appropriate by the town planner and town council to affect the purposes of this title. The following conditions shall apply to all projects:

- (1) Floor area exempted under this chapter shall not be traded off for non-attic floor area.
- (2) Project construction shall comply with the most recent Construction Mitigation Measures adopted by the Bay Area Air Quality Management District and grading activities shall include Best Management Practices (BMPs) designed to limit potential erosion.
- (3) As provided in Title 15, Section 15.50.060, no building permit shall be issued within nine months of final inspection or expiration of an antecedent building permit.

(f) Any exception request that does not comply with the prescribed limitations set forth in this chapter shall require a variance, pursuant to Chapter 18.48.

18.46.040 Prior conditions not applicable. This chapter supersedes any town council conditions limiting improvement of attic and basement areas imposed prior to the effective date of this section.

SECTION 7: Adoption of this Ordinance is consistent with the Town's General Plan. The Town's General Plan provides goals and policies to preserve the high-quality design, small-town character, aesthetics, environmental characteristics, in addition to assuring the health and safety of the predominantly residential character of the community. Adoption of this Ordinance will provide uniform and comprehensive regulations in furtherance of the General Plan goals and objectives.

SECTION 8: CEQA. The Town Council has determined that the ordinance is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) in that the Council finds there is no possibility that the adoption of this ordinance may have significant effects on the environment. The Town Council would require environmental review based on the specific site circumstances for any project subject to discretionary review and certain projects would be exempt under exemptions for new small structures and existing facilities and minor alterations in land use (14 Cal. Code Regs. §15301, 15303, 15305). The Town Council also considers the project exempt from review under the California Environmental Quality Act under the "common sense" exemption. (14 Cal. Code Regs. §15061(b)(3)) since "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

SECTION 9: Inclusion in the Ross Municipal Code. It is the intention of the Ross Town Council that the additions, deletions and amendments in the sections above be made a part of the Ross Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

SECTION 10. SEVERABILITY. If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Town Council of the Town of Ross hereby declares that it would have adopted each article, section, and sentence thereof, irrespective of the fact that any one or more of said provision be declared unconstitutional or invalid.

SECTION 11. PUBLICATION AND EFFECTIVE DATE. The Town Clerk is directed to certify adoption of this ordinance and cause it to be published and posted in the manner required by law. This ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the 9th day of May, 2019, and was adopted at a regular meeting of the Ross Town Council on the 13th day of June, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

P. Beach Kuhl, Mayor

ATTEST:

Linda Lopez, Town Clerk